

EXHIBIT 749 - F-1-15
U.S. DIST. CT. 18
11/5/18

COVER

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

FILED

NOV 08 2018

RICHARD CLOSSIP, et. al.,
PLAINTIFFS,

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY HR, DEPUTY

VS.

CASE NO. CIV-14-665⁵-F

KEVIN J. CROSS, et. al.,
DEFENDANTS.

CAPITAL CASE

PURSUANT TO FED. R. CIV. P. 18, 19, AND 20, DEATH ROW PRISONER
WADE LAY MOTIONS THIS COURT (UNITED STATES DIST. JUDGE
STEPHEN P. FRIDT) WITH A "JOURNEDER OF CLAIMS" AND "REQ-
UIRED JOURNEDER OF PARTIES" FEASIBILITY CLAIM.

(WITH BRIEF IN SUPPORT)



WADE CORRELY LAY # 516263

OKLAHOMA STATE PENITENTIARY

P.O. BOX 91

MCALISTER, OKLAHOMA 74502

DATE: 10/31/2018

Sherry Day

PRO-SC

IN DOC. NO. 260, FILED 10/16/2015 PAGE 2 OF 3, THIS COURT ORDERS,

THAT:

"IT WOULD BE IN THE INTEREST OF JUDICIAL ECONOMY AND COMITY FOR THE OKLAHOMA ATTORNEY GENERAL NOT TO SEEK AN EXECUTION DATE FROM THE OKLAHOMA COURT OF CRIMINAL APPEALS FOR ANY OF THE PLAINTIFFS OR *any other condemned prisoners* UNTIL AFTER COUNSEL FOR PLAINTIFFS ARE PROVIDED THE FOLLOWING: (EMPHASIS ADDED).

(a) NOTICE THAT INVESTIGATIONS, KNOWN TO THE OFFICE OF THE ATTORNEY GENERAL, BY ANY LOCAL, STATE, OR FEDERAL AUTHORITIES RELATED TO EXECUTION PROCEDURES OF THE OKLAHOMA DEPARTMENT OF CORRECTIONS HAVE BEEN CONDUCTED;

(b) THE RESULTS, TO THE EXTENT THEY ARE PUBLIC, OF THE INVESTIGATIONS REFERENCED ABOVE IN (a);

(c) NOTICE AND COPIES OF AMENDMENTS, IF ANY, TO 'EXECUTION OF OFFENDERS SENTENCED TO DEATH,' OP-040301, EFFECTIVE DATE JUNE 30, 2015 ("PROTOCOL"); AND

(d) NOTICE THAT THE OKLAHOMA DEPARTMENT OF CORRECTIONS WILL BE ABLE TO COMPLY WITH THE EXPRESS TERMS OF THE PROTOCOL."

GIVEN THE GRAVAMEN OF THIS CASE, CONSIDERING THE FACT THAT THIS

COURT HAS ALREADY RECOGNIZED WADE LAY AS A PARTY OF INTEREST,

IG, *"any other condemned prisoner[s]"*. (SEE EXHIBIT 130-A). FED. R. CIV. P.

RULE 19(a)(1) CLEARLY INCLUDES WADE LAY WITHIN THE PARAMETERS OF THIS "EXECUTION OF OFFENDERS SENTENCED TO DEATH" PROCESS, AND "SUBJECT MATTER JURISDICTION", EQUAL TO THE NAMED PLAINTIFFS IN *Glossip V. GROSS*. HOWEVER, THE IMPERATIVE LIES IN 1(A), (B), (i AND ii) OF RULE 19 (a), THAT, WADE LAY "MUST BE JOINED AS A PARTY IF:

- (A) "IN THAT PERSON'S ABSENCE, THE COURT CANNOT ACCORD COMPLETE RELIEF AMONG EXISTING PARTIES; OR
- (B) "THAT PERSON CLAIMS AN INTEREST RELATING TO THE SUBJECT OF THE ACTION AND IS SO SITUATED THAT DISPOSING OF THE ACTION IN THE PERSON'S [(WADE LAY'S)] ABSENCE MAY:
 - "(i) AS A PRACTICAL MATTER IMPAIR OR IMPEDE THE PERSON'S ABILITY TO PROTECT THE INTEREST; OR
 - "(ii) LEAVE AN EXISTING PARTY SUBJECT TO A SUBSTANTIAL RISK."

IN THIS MATTER THE SEVERITY IS HEIGHTENED TO THE PLAINTIFF'S INTEREST AND RISK, BEYOND FINANCIAL OBLIGATIONS OR LOSS, THE VALUE AND INTEREST IS THE PERSON OR PARTIES LIFE. WADE LAY IS SO SITUATED AS THE FACTS SHOW, TO BE BY THE W.D. COURT'S ADMISSION,

A PARTY OF INTEREST, AS *any other condemned prisoner*; AND "AS
A PRACTICAL MATTER" PENDING LITIGATION PRESENTLY IN THE
UNITED STATES SUPREME COURT, *ie., Lay v. Oklahoma Dept. of*
Corrections, (CN-17-1224-D); NO. 18-6024 (10TH CIR. 2018); CERTIORARI NO.
18-A 404; AND *Lay v. United States*, (CN-18-139-RAW); NO. 18-7035
(10TH CIR. 2018) ALSO PENDING ON CERTIORARI FILED AT OKLAHOMA STATE
PENITENTIARY (O.S.P.), ON 10/19/2018, EACH PARTY SO CONSTITUTED
CP, "SENTENCED TO DEATH", BEARS A SIGNIFICANT INTEREST IN THE
ABOVE STATED PARALLEL CASES PENDING IN THE U.S. SUP. CT.
IT IS UNDENIABLE WADE LAY ASSETS RIGHTS SEEKING RELIEF
JOINTLY, OR IN COMMON WITH THE OTHER PLAINTIFFS, AND SEVERALLY
WITH DISTINCT AND SPECIFIC FACTS CAUSED BY UNIQUE CIRCUMSTANCES
WHICH CREATE ALTERNATIVE CLAIMS TO ALL THE PLAINTIFFS ARISING

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OUT OF THE SAME CAUSE OF ACTION, TRANSACTIONS AND OCCURRENCES.

MOREOVER, THE SAME QUESTIONS OF LAW OR FACT COMMON TO

ALL PLAINTIFFS HAS ARISEN IN THIS ACTION WITH THE FACTS OF THE

PARALLEL CASES CONSIDERED. IT IS INCUMBENT UPON THIS COURT

TO RECOGNIZE WADE LAY AS CO-PLAINTIFF, GIVEN THE DYNAMIC OF

Glossip v. Gross, et al., AND THE RELEVANT FACTS HIS PARALLEL LITIGATION

BRINGS TO THE OTHER PLAINTIFFS AND THE EFFECT OF THE JOINDER

OF WADE LAY TO ALL PARTIES.

WHEN (1), PARAGRAPH^{*} 2 IS CONSIDERED, *i.e.* "NOTICE THAT THE OKLAHOMA

DEPARTMENT OF CORRECTIONS WILL BE ABLE TO COMPLY WITH THE EXPRESS

TERMS OF THE PROTOCOL", AS IT RELATES TO (C), *i.e.* "AMENDMENTS"; PARAGRAPHS,

NUMBERS 3, 4, AND 5 ARE DEEPLY EFFECTED, IN LIGHT OF THE FACTS BEING

CONSIDERED IN *Lay v. O.D.C., et al.*, 18-A404; AND *Lay v. United*

States, 18-139-RW; NO. 18-7055 (10TH CIR. 2018); PENDING IN THE U.S. SUP. CT.

ON CERTIORARI, FILED AT O.S.D. ON 10/19/2018. IN *Lay V. O.D.O.C.*,

CERT. NO. 18-1404, ON PAGES 1 & 2, TO JUSTICE SOTOMAYOR LAY WRITES:

" ON NOVEMBER 13, 2017, WADE LAY FILES *Lay V. O.D.O.C.*, LCN-17-1224-D), BUT OKLAHOMA STATE PENITENTIARY DEPRIVES WADE LAY HIS ABSOLUTE RIGHT TO ACQUIRE *in-forma-puopriis*, AND THE PRISON DEPRIVES PETITIONER OF BASIC PROCESS TO PAY THE \$400⁰⁰ FILING FEE AFTER THE... (U.S.D.C. W.D./OK.), DENIES (i.f.p. DUE TO THE PLAINTIFF HAVING OVER \$400⁰⁰ IN HIS TRUST FUND ACCOUNT.

" WADE LAY PLEADS TO THE W.D. COURT, THAT, BECAUSE OF ABUSE OF PROCESS, AND UNLAWFUL PROCESS, LAY WILL NOT BE ABLE TO DEPEND ON O.S.D. TO PAY THE FILING FEE OUT OF HIS TRUST FUND ACCOUNT, AND THE DISTRICT COURT SHOULD ORDER THE FEE TO BE PAID, THE U.S.D.C. W.D./OK. DENIES THE MOTION, AND WADE LAY APPEALS TO THE TENTH CIRCUIT COURT OF APPEALS. "

PRESENTLY PENDING IN THIS COURT IS EVIDENCE OF A CONSPIRACY BETWEEN PRISON OFFICIALS AND FEDERAL JUDGE DEGIUSTI AND U.S. MAGISTRATE JONES, AN ILLEGAL PAYMENT OF THE FILING FEE OF \$400⁰⁰, THE DEPRIVATION OF SUCH PROCESS CAUSED THE APPEAL. FEDERAL DIST. JUDGE FRIOT WILL SEE PERTINENT FACTS CRUCIAL TO INTEGRITY OF THE INVESTIGATIONS AND LEGITIMACY OF THE

(2008-150)

TCL 6

RESULTS, THE LIKES OF WHICH ARE TO BE MADE PUBLIC, AS ORDERED. (SEE ITEM NO. 2 (a) AND (b), PG. 2 OF 3 OF DKT#260, ALSO ENCLOSED AS EXHIBIT TSO - A).

BECAUSE INVESTIGATIONS, RESULTS, AND NOTIFICATION OF "EXECUTION PROCEDURES", AND/OR "PROTOCOL", TITLED AS: "EXECUTION OF OFFENDERS SENTENCED TO DEATH, 'OP-040301, [(O.M.C. POLICY REGULATIONS)] EFFECTIVE DATE JUNE 30, 2015 ("PROTOCOL"); (SEE ITEM 2 (C)) IS FOLLOWED BY 2(d), i.e., "NOTICE THAT THE OKLAHOMA DEPARTMENT OF CORRECTIONS WILL BE ABLE TO COMPLY WITH THE EXPRESS TERMS OF THE PROTOCOL", INCLUDES THE EXECUTION OF WADE LAY; THE FACTS THAT HAVE EMERGED OUT FROM MULTIPLE CIVIL ACTIONS INVOLVING LEGITIMATE CLAIMS OF COLLUSION BETWEEN FEDERAL AND STATE ACTORS, BRINGS INTO QUESTION THE UNIMPAIRED INTEGRITY AND DISCRETION OF THIS COURT.

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PC. 7

THE HEART OF THE MATTER IS FOUND IN WADE LAY'S *In re*
FILING IN *Lay V. O.D.C.*, 18-A404, FILED AS CERTIORARI ON 10/12/
2018, TO THE HONORABLE Justice Sonia Sotomayor; NO. 18-6024 (10TH CIR.
2018); D.C. (CIV-17-1224-D). FEDERAL DISTRICT JUDGES JONES AND
DEGIUSTI HAVE INVOLVED THEMSELVES IN A CONSPIRACY WITH
OKLAHOMA STATE PENITENTIARY (O.S.P.) PRISON OFFICIALS, ILLEG-
ALLY COLLECTING \$400⁰⁰ FROM WADE LAY'S TRUST FUND ACCOUNT,
AND SENDING IT TO THIS W.D. COURT FOR THE PURPOSE, TO PROVIDE OPP-
ORTUNITY TO JUDGE JONES THE MAGISTRATE, TO REQUIRE JURISDIC-
TION IN A CASE WHERE A LAWFUL APPEAL TO THE SUPREME
COURT IS ACTIVE.

LISA WEBBITT, CLERK OF THE U.S. SUP. CT., AND CASE ANALYST
IN *Lay V. O.D.C.*, 18-A404, ALSO A RESPONDENT IN *Lay V.*
United States, (CIV-18-139-RAN); NO. 18-7055 (10TH CIR. 2018); ALSO PENDING

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ON CERTIORARI BEFORE THE U.S. SUP. CT., FILED 10/19/
2018. AT O.S.P., HAS REPEATEDLY ON NUMEROUS OCCASIONS
DEPRIVED LAY OF HIS LAWFUL RIGHT TO APPROACH THE
U.S. SUPREME COURT, AND NO DOUBT SHE STANDS READY
TO RENDER THE CERTIORARI PETITION MOOT, IN RESPONSE
TO THE ILLEGAL USURPATION OF JONES AND DEGIUSTI.
(SEE DKT# 45, Lay V. O.D.C., 17-1224-D, ENCLOSED AS ATTACHMENT).

THE EVIDENCE OF THIS CONSPIRACY IS OVERWHELMING,
AND THE FINANCIAL RECORDS THAT REVEAL THE THEFT OF
THE \$400⁰⁰ ARE FILED IN THE U.S. SUP. CT., AS PART OF
THE CERTIORARI PETITION, ALONG WITH IDENTICAL CLAIMS
OF JUDICIAL SUBTERFUGE AND COLLUSION. IT IS
HARD TO IMAGINE, IN A CASE SO SUSCEPTABLE TO
PUBLIC OPINION, JUDGE FRIOT WOULD IGNORE HIS OWN

RULING "TO THE EXTENT (THE RESULTS) ... ARE MADE

PUBLIC, OF THE INVESTIGATIONS REFERENCED ABOVE IN

(C))" THAT WADE LAY'S CIRCUMSTANCES COULD BE EXC-
LUDED FROM THAT EQUATION!

WADE LAY PROMOTES TO THIS COURT, AND TO ALL THE OTHER

PLAINTIFFS, TO INCLUDE "ANY OTHER CONDEMNED PRISONERS",

AND THEIR COUNSEL, THAT: "THE OKLAHOMA DEPARTMENT OF

CORRECTIONS WILL [NOT] BE ABLE TO COMPLY WITH THE EXPRESS

TERMS OF THE PROTOCOL", AS DEEMED NECESSARY IN ITEM 2(d)

OF DKT# 260 OF THE ABOVE TITLED CASE. DKT# 59, OF Lay V.

Griffin, (CIV-18-09-JHP-SIS), PRESENTLY PENDING IN THE U.S.D.C.

E.D. OK., PROVIDES DOCUMENTARY EVIDENCE, THAT THE O.D.O.C.

ALTERS DOCUMENTS, CREATES FRAUDULENT DOCUMENTS, AND CONSPIRES

WITH O.S.P. PRISON OFFICIALS TO DEFRAUD COURTS, AND PUNISH

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PRISONERS WHILE PROTECTING MALFEASANCE OF PRISON OFFICIALS.

ADDITIONALLY, *Lay V. Orman, I*, (CIV-15-170-FHS-SPS); WITH *Lay*

V. Orman, II, (CIV-15-470-JHP-SPS); ART#6, OF *Lay V. Orman, I*, AND

THE FINANCIAL RECORDS OF *Lay V. Orman, I & II*, LEGITIMIZES WADE LAY'S

CLAIMS THAT ARE SO PREVALENT THROUGHOUT THE SEVERAL CIVIL

ACTIONS FILED IN BOTH THE U.S.D.C. E.D./OK., AND THE U.S.D.C. W.D./

OK., ADDREDOVER, THE RELEVANCE OF THESE CLAIMS TO THIS CASE, IS

FOUND IN *Lay V. O.D.C.*, 18-A404, PRESENTLY BEFORE Justice Sonia

Sotomayor.

WADE LAY HAS ALREADY FILED HIS PETITION JUSTIFYING THE EXTRACTED

INARI CIRCUMSTANCES WITH CLAIMS OF COLLUSION BETWEEN FEDERAL

DIST. JUDGES, THE O.D.C.C., AND O.S.P., AS STATED IN THIS PLEADING,

AND LAY'S *In re* FILING TO THIS COURT, IN HIS RESPONSE TO THE

FIN. #

SEE EXHIBIT 748, THE E.D. COURT DISMISSES *Lay V. Orman, I*, UNDER PRETENSE THE INITIAL FILING FEE WAS NOT PAID. THIS IS FALSE! AND IN *Lay V. Orman, II*, THE E.D. COURT ILLEGITIMATELY REFUNDS OVER \$6000 OF FILING FEES, CONSPIRING WITH THE PRISON TO INSURE THE PLAINTIFF.

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PC 11

ILLEGAL ENCROACHMENT OF JUDGES JONES AND DEGIUSTI WITH
DRT# 45 OF Kay V. O.D.C., 17-1224-D, AND THE ILLEGAL ^{\$}400⁰⁰
PAYMENT SENT BY PRISON OFFICIALS AT O.S.D..

THEREFORE, THE CO-PLAINTIFFS IN THE ABOVE TITLED CASE,
AND THE PUBLIC, HAVE A RIGHT TO KNOW, THAT THE FUNDA-
MENTAL PART OF THIS COURT'S CRITERION SET IN ITEM 2 (a), (b), (c),
AND (d), OF DOC. NO. 260, IN *Richard Glossip, et al., V. Kevin*
Gloss, et al., (CIV-14-665-F), CANNOT BE SATISFIED, AS DICTATED
BY THIS COURT.

EACH PLAINTIFF, AND EVERY OTHER PRISONER HAVE A TENTATIVE
EXECUTION DATE THAT WILL BE SOUGHT FOR BY THE OKLAHOMA
ATTORNEY GENERAL, (SEE ITEM NO. 3, OF DOC. NO. 260)" 150 DAYS
AFTER PLAINTIFFS ARE PROVIDED THE INFORMATION DESCRIBED
IN (a), (b), (c), AND (d) ABOVE", IS "A PERSON WHO IS SUBJECT

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"TO SERVICE OF PROCESS", IN THE SAME MANNER AS WADE LAY,

"WHOSE JOINER WILL NOT DEPRIVE THE COURT OF SUBJECT MATTER

JURISDICTION"; BUT TO THE CONTRARY, IN WADE LAY'S ABSENCE,

"THE COURT CANNOT ACCORD COMPLETE RELIEF AMONG EXISTING

PARTIES". (SEE FED. R. CIV. P. 19).

IT IS UNDENIABLE, THAT WADE LAY BEARS A SUBSTANTIAL INTEREST

"RELATIVE TO THE SUBJECT OF THE ACTION AND [THAT HE] IS SO

SITUATED THAT DISPOSING OF THE ACTION IN THE PERSON'S [WADE

LAY'S] ABSENCE", WILL "LEAVE [] [THE] EXISTING PART[IES] SUBJECT

TO SUBSTANTIAL RISK". (SEE FED. R. CIV. P. 19 (a)(1)(B)). IT IS ALSO

OBVIOUS THAT WADE LAY'S INTEREST "RELATIVE TO THE SUBJECT

OF THE ACTION" OF THIS CASE, WHEREIN THIS COURT ADMITS

HIS INVOLVEMENT; WADE LAY IS ABSOLUTELY "IMPAIRED OR

*
IMPEDE[D] [IN HIS]... ABILITY TO PROTECT THE INTEREST" HE SHARES,

ENLH

*) SEE FED. R. CIV. P. 19 (a)(1)(B)(i)

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AND HIS PARALLEL CASES, *i.e.*, *Way V. O.D.C.*, LCW-17-1224-D); NO. 18-6024 (10TH CIR. 2018); CERTIORARI NO. 18-4404; WITH *Way V. C.T.A.*, LCW-18-09-JAP-SPS); AND *Way V. United States*, LCW-18-137-RAW); NO. 18-7035 (10TH CIR. 2018); ALSO PENDING IN THE U.S. SUP. CT., FILED AT O.S.P., (FILED 10/19/2018), SEEKS TO PROSECUTE THE CONDITION AS THAT AUTHORIZED BY CONGRESS IN 28 USC §§ 2244(d)(1)(B), AND 2255 (F)(2).

FEDERAL RULES OF CIVIL PROCEDURE, RULE 19(b) IN ITS FACTORS OF CONSIDERATION, *i.e.*, FED. R. CIV. P. (b)(1), (2), AND (3), DECLARES WADE WAY'S JOINER AS FEASIBLE, AND A CONSIDERATION OF THE CLAIMS NAMED ABOVE IN THIS PLEADING, AND THE PARALLEL CASES NAMED IN THIS PLEADING, IN A CAPITAL CASE, ARE IMPERATIVE TO THE NATURE OF THE CASE, AND ITS CHARGE OF ACTION.

IN CONCLUSION, WADE WAY FILED IN *Way V. O.D.C.*, LCW-18-481-RAW-

PG 14

SPS); NO. 15-7023 (10th CIR. 2015), Dkt # 53, PERTINENT INFORMATION SURROUNDING THE EXECUTION OF INMATES (LOCKET AND WARNER), PERTAINING TO SPECIFIC ACTIONS OF O.S.P. PRISON OFFICIALS ON THE DAY MR. LOCKET WAS EXECUTED, THAT WADE LAY WITNESSED PERSONALLY, AND A CONVERSATION HE SHARED WITH MR. LOCKET THAT SAME MORNING. THE INFORMATION CONTAINED IN THE CIRCUMSTANCES SURROUNDING THESE EVENTS AND CIVIL ACTIONS WILL BE SHARED WITH THE UNITED STATES SUPREME COURT. IT IS INCUMBENT ON THIS COURT TO ADDRESS THESE ISSUES, IN THE INTEREST OF JUSTICE, IN A CAPITAL CASE.



Sherry Day

10/31/2018

RESPECTFULLY SUBMITTED


WADE LAY, AT O.S.P.

P.O. BOX 97

MCALISTER, OKLA. 74502